

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALLISON LYNN HYPES,
MICHAEL DAVID HYPES, and SAMUEL
DAVID HYPES, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ANGELA C. HYPES,

Respondent-Appellant,

and

MICHAEL D. HYPES,

Respondent.

UNPUBLISHED

June 26, 2008

No. 280473

Wayne Circuit Court

Family Division

LC No. 90-288446-NA

Before: Owens, P.J., and Meter and Schuette, JJ.

PER CURIAM.

Respondent Angela Hypes¹ appeals as of right from the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(a)(ii), (b)(ii), (b)(iii), (g), (j), and (k)(i). We affirm.

I. FACTS

Respondent's involvement with protective services began in the 1990s, when her four older children were removed from her care, based on allegations of sexual abuse and environmental neglect, and were never returned.

¹ Respondent Michael D. Hypes is not a party to this appeal.

In 2000, Michael and Allison Hypes were made temporary court wards due to respondent's domestic violence, substance abuse, and environmental neglect issues. At a 2000 pretrial hearing, respondent admitted domestic violence occurred between respondent and the children's father. The next year, the court adopted the DHS's recommendation to dismiss the case.

In 2003, when Michael was seven years old, police found him walking alone looking for respondent. The court denied the request for action but initiated in-home services.

In 2007, DHS petitioned for permanent custody of the three children after a police officer found Allison padlocked in the bedroom of a 57-year-old, unrelated male, Nicholas Burke. DHS asserted that respondent had failed to protect her children from sexual abuse and had failed to provide suitable housing. According to DHS, the agency had, on numerous occasions, advised respondent to live elsewhere. However, when respondent finally left Burke's house, she allowed Allison to continue to live there.

At trial, various witnesses testified that the house contained broken windows and doors, unreasonable amounts of trash, cat feces, bugs, and little furniture. An attendance officer for the Detroit Public School System testified that Allison had 29, Michael had 22, and Samuel had 20 unexcused absences. He further testified he went to respondent's home, where respondent answered the door identifying herself as the babysitter and saying she did not know Allison's location. He also observed respondent pace the streets for 20 to 25 minutes. Wayne County Sheriff's Deputy Carter testified that when he went to the Burke residence, he knocked for 25 to 30 minutes on all the doors. After Carter entered, he found Allison padlocked inside Burke's bedroom. Without Carter's prompting, one of the Hypes boys exclaimed, "Nick sometimes sleeps with Allison." Burke's daughter, Christina, testified that Burke treated Allison "like his wife," and respondent acted strangely. Christina also testified that Allison would leave with an older man, whom Allison identified as having raped her.

DHS worker Woods testified that she recommended that respondent leave the residence, but respondent refused and threatened to hide with her children. The Principal at Allison's elementary school testified that Christina came to his office complaining that her father liked Allison more, Allison got to wash her clothes, Allison sat on Burke's lap only wearing a bra and underwear, and Allison slept with him. He also observed a hickey mark on Allison's neck, which Christina told him was from Raul, an unrelated male in his twenties. He testified that he spoke to respondent concerning Christina's statements.

Adams, another DHS worker, testified that she instructed respondent not to allow Allison around Burke and observed the inscription, "Allison loves Nicky," on Allison's purse. When Adams spoke with Allison, she confided that she had numerous sexual partners over the age of 18.

Nicholas Burke denied any sexual relationship with Allison. Burke testified he observed, more than once, Raul and Allison leave the house together and without anyone else. In addition, the court admitted evidence of Allison's medical records regarding a hospital visit in 2007. The records stated, "[a]ccording to the foster mother, the child has told her that multiple men have sexually assaulted her."

The court terminated respondent's parental rights under MCL 712A.19b(3)(a)(ii), (b)(ii), (b)(iii), (g), (j), and (k)(i).

II. STATUTORY GROUNDS FOR TERMINATION

Respondent argues that the trial court clearly erred in finding that the statutory grounds for termination were established by clear and convincing evidence. We disagree.

A. Standard of Review

Decisions terminating parental rights are reviewed for clear error. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

B. Analysis

Termination of parental rights is appropriate under § 19b(3)(g) when “the parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.”

Here, there was clear and convincing evidence that respondent had a long history with protective services, and that these children would have come into foster care years earlier if respondent had not fled. Although it appears that no psychiatric or substance abuse evaluations were ever ordered, there was evidence of respondent's bizarre behavior, her lack of judgment regarding the children, and her inability to provide an appropriate home for the children. There was clear and convincing evidence that respondent continued to leave Allison with Burke after respondent was told, several times by several people, about allegations that he was sexually abusing the child, and that she was aware that Allison was padlocked in Burke's bedroom. There was also clear and convincing evidence that respondent had been unable to care for four older children.

Although respondent suggests on appeal that she could have benefited from services, there was clear and convincing evidence that she was provided with parenting classes and that she was told how to apply for cash assistance, food stamps, Medicaid, and payment of her first month's rent and security deposit to secure permanent housing, but never followed through. Moreover, petitioner is not required to make reasonable efforts to unify the family in cases involving sexual abuse. MCL 712A.19a(2)(a); MCL 722.638(1) and (2). Therefore, we conclude that the trial court did not clearly err in finding that termination was warranted under § 19b(3)(g).

Only one statutory ground is needed to support an order terminating parental rights. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000). Therefore, we need not address respondent's arguments regarding termination under §§ 19b(3)(a)(ii), (b)(ii), (b)(iii), (j), and (k)(i).

III. BEST INTERESTS OF THE CHILDREN

A. Standard of Review

Once a statutory ground for termination has been met by clear and convincing evidence, the trial court must terminate parental rights unless to do so is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 355. The trial court's best interests decision is also reviewed for clear error. *Id.* at 356-357.

B. Analysis

The children had lived in filthy, unsafe surroundings for a prolonged period of time. The older child needed intensive individual therapy, anger management, and treatment for depression, and all of the children were behind academically because they had missed so many days of school. There was no indication that respondent would be capable of providing a proper home or care for the children within the foreseeable future. The evidence did not clearly show that termination of respondent's parental rights was not in the children's best interests. Thus, the trial court did not err in terminating respondent's parental rights to the children.

Affirmed.

/s/ Donald S. Owens

/s/ Patrick M. Meter

/s/ Bill Schuette